



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,853	05/09/2005	Michael Roth	PP/1-22658/A/CGM 516/PCT	6347

324 7590 04/03/2006

CIBA SPECIALTY CHEMICALS CORPORATION
PATENT DEPARTMENT
540 WHITE PLAINS RD
P O BOX 2005
TARRYTOWN, NY 10591-9005

EXAMINER

SANDERS, KRIELLION ANTIONETTE

ART UNIT	PAPER NUMBER
----------	--------------

1714

DATE MAILED: 04/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/511,853

Applicant(s)

ROTH ET AL.

Examiner

Kriellion A. Sanders

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 23 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 7-17 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 7-17 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 7-17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 99/00450 in view of Galbo et al, US Patent No. 5096950 and WO 01/90113.
3. Each of the references discloses that it is known in the art to produce thermoplastic compositions comprising hydroxylamine esters having the formulae set forth in applicant's claims and flame retardant additives. The weight percentages of the additive components within the range of 0.1 to 15 weight percent of hydroxyl amine and 0.1-30 wt% for flame retardant are also disclosed.

WO 99/00450 discloses among many suitable flame retardants, tris[3-bromo-2,2-(bromomethyl)propyl]phosphate. For the most pertinent disclosure, see page 55, figure N; page 22, paragraph 6; page 26, paragraph 5; page 27, paragraphs 2-4, page 28, paragraph 4 through page 29, paragraph 1 and Example 18

Galbo et al, US Patent No. 5096950 discloses that suitable flame retardants include a broad range of chemistries including phosphate esters and halogenated compounds. Also

Art Unit: 1714

peroxides are employed in the invention for the purpose of oxidizing specific hindered amines to produce the patented hydroxylamines. See col. 20, lines 33-39.

Also see col. 1, lines 48-53, col. 15, lines 17-30 and 52-59, col. 18, line 26, col. 19, lines 67-68, col. 20, lines 33-39, claims 1, 2 and 20-30.

WO 01/90113 discloses that conventional additives such as flame retardants may be combined with the hindered amine stabilizers to produce flame retardant polymeric compositions. See page 49, paragraph 3.

4. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine the hydroxylamine esters of any of WO 99/00450, Galbo et al, US Patent No. 5096950 or WO 01/90113 with the specific flame retardants of WO 99/00450 to produce flame-retarded polymeric compositions since each of the references disclose that the hydroxyl amines may be combined with flame retardant additives.

Response to Arguments

1. Applicant's arguments filed 1/23/06 have been fully considered but they are not persuasive. Applicant's arguments have not been found to be persuasive in that the comparative data presented in the specification at Table 6 is not commensurate in scope with the presently claimed invention. The data does not provide a representative sampling of the hydroxylamines and flame retardant additives or the possible combinations of these components that are included in the present claims. Additionally, the comparison was not performed in a back-to-back manner. The quantity of comparative compound 106 is twice that of compound 138, which

Art Unit: 1714

represents the present invention. It therefore is not clear to what any unexpected results may be attributed.

Information Disclosure Statement

References WO 99/00450 and WO 98/51735 cited on the International Search Report provide cumulative teachings to the art relied upon.

Conclusion

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kriellion A. Sanders whose telephone number is 571-272-1122. The examiner can normally be reached on Monday through Thursday 6:30-7:00.

Art Unit: 1714

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kriellion A. Sanders
Primary Examiner
Art Unit 1714

ks